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*Attorneys for Plaintiff
 and Proposed Class*

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UNITED STATES DISTRICT COURT

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FOR THE CENTRAL DISTRICT OF CALIFORNIA

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WESTERN DIVISION

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PAMELA CRUZ, individually and on
 behalf of all others similarly situated,

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Plaintiff,
 vs.
 TWO ROADS HOSPITALITY LLC,
 a Delaware limited liability
 corporation; and DOES 1 to 10,
 inclusive,

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Defendants.

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CASE NO.:

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CLASS ACTION COMPLAINT

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- 1. BREACH OF IMPLIED CONTRACT
- 2. NEGLIGENCE
- 3. VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW CAL. BUS. & PROF. CODE § 17200 UNLAWFUL BUSINESS PRACTICES
- 4. VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW CAL. BUS. & PROF. CODE § 17200 UNFAIR BUSINESS PRACTICES
- 5. VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW CAL. BUS. & PROF. CODE § 17200 FRAUDULENT/DECEPTIVE BUSINESS

1 PRACTICES
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3 6. NEGLIGENCE *PER SE*
4 7. BREACH OF COVENANT OF GOOD
5 FAITH AND FAIR DEALING
6 8. VIOLATION OF CALIFORNIA DATA
7 BREACH ACT
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DEMAND FOR JURY TRIAL
9 Plaintiff Pamela Cruz (“Plaintiff”), individually and on behalf of all others
10 similarly situated, brings this action based upon personal knowledge as to himself
11 and his own acts, and as to all other matters upon information and belief, based
12 upon, *inter alia*, the investigations of his attorneys.
NATURE OF THE ACTION
11 1. As of March 2018, Two Roads Hospitality (“Defendant”) owned or
12 managed 90 properties in the world. Every day, hundreds of customers book hotel
13 rooms with Defendant. Hundreds of thousands of customers every year book hotel
14 rooms using the Sabre SynXis Central Reservations system, which facilitates the
15 booking of hotel reservations made by consumers through hotels, online travel
16 agencies, and similar booking services. Defendant utilizes the SynXis Central
17 Reservations system (“CRS”). Consumers expect the highest quality of services
18 when booking a hotel room with Defendant. What consumers did not expect is that
19 during the period between August 10, 2016 and March 9, 2017, their personal
20 information would be collected by an unauthorized third party. The data of
21 customers that stayed at Defendant’s hotels was accessed due to a data breach.

22 2. Plaintiff, individually and on behalf of those similarly situated persons
23 (hereafter “Class Members”), brings this Class Action to secure redress against
24 Defendant for its reckless and negligent violation of customer privacy rights.
25 Plaintiff and Class Members are customers who booked hotel reservations with
26 Defendant, during the period of August 10, 2016 to March 9, 2017.

3. Plaintiff and Class Members suffered injury. The security breach compromised hotel customers' full name, credit and debit card account numbers, card expiration dates, card verification codes, emails, phone numbers, addresses, and other private identifiable information ("PII").

4. As a result of Defendant's actions, Plaintiff was forced to take remedial steps to protect himself from future loss. Indeed, all of the Class Members are currently at a very high risk of direct theft, and prophylactic measures, such as the purchase of credit monitoring, are reasonable and necessary to prevent and mitigate future loss.

5. As a result of Defendant's wrongful actions and inactions, customer information was stolen. Many of the customers who booked rooms at Defendant's hotels have had their PII compromised, have had their privacy rights violated, have been exposed to the risk of fraud and identify theft, and have otherwise suffered damages.

THE PARTIES

6. Plaintiff is a California citizen residing in Los Angeles, California. Plaintiff is a long-time customer of Defendant who has given his personal identifying information to Defendant. Shortly after the breach, Plaintiff's debit and credit card information was accessed by hackers. In addition, Plaintiff has to purchase credit and personal identity monitoring service to alert him to potential misappropriation of his identity and to combat risk of further identity theft. At a minimum, therefore, Plaintiff has suffered damages because he will be forced to incur the cost of monitoring service. Exposure of Plaintiff's identifying personal information has placed him at imminent, immediate and continuing risk of further identity theft-related harm.

7. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated, namely all other individuals who have made a booking at any of Defendant's hotels during the period of August 10, 2016 to March 9, 2017.

8. Defendant Two Roads Hospitality is a limited liability corporation, with its headquarters at 10333 E. Dry Creek Road, Ste. 450, Colorado, 80112. Defendant conducts a large amount of its business in California, and the United States as a whole.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over the state law claims asserted herein pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), since some of the Class Members are citizens of a State different from the Defendant and, upon the original filing of this complaint, members of the putative Plaintiff class resided in states around the country; there are more than 100 putative class members; and the amount in controversy exceeds \$5 million.

10. The Court also has personal jurisdiction over the parties because, on information and belief, Defendant conducts a major part of its national operations with regular and continuous business activity in California, through a number of hotels and with an advertising budget not exceeded in other jurisdictions throughout the United States.

11. Venue is appropriate in this District because, among other things: (a) Plaintiff is a resident of this District and a citizen of this state; (b) Defendant directed its activities at residents in this District; and (c) many of the acts and omissions that give rise to this Action took place in this judicial District.

12. Venue is further appropriate in this District pursuant to 28 U.S.C. § 1391 because Defendant conducts a large amount of its business in this District, and because Defendant has substantial relationships in this District.

SUBSTANTIVE ALLEGATIONS

A. The Two Roads Hospitality's Data Breach

13. Sabre operates the SynXis Central Reservations system, which facilitates the booking of hotel reservations made by individuals and companies. Sabre's CRS serves more than 36,000 properties with 2.4 hotels added to Sabre's

1 system every hour and with over 8 billion CRS shopping requests each month. *See*
 2 Sabre Results, available at <http://www.sabrehospitality.com/>.

3 14. On July 14, 2017, Defendant stated that “Sabre’s SynXis Central
 4 Reservations system (CRS) is the reservations system that guests interact with when
 5 making reservations at properties managed by Two Roads Hospitality companies,
 6 including Joie de Vivre Hotels, Thompson Hotels, and Destination Hotels.” Notice
 7 of Data Breach attached hereto as **Exhibit A**.

8 15. In addition to the eight-month period, the unauthorized third-parties
 9 would have had access to booking information up to 60 days prior to the breach, as
 10 the SynXis CRS only deletes reservation details 60 days after the hotel stay. *See*
 11 June 29, 2017, Google Notice of Data Breach, attached hereto as **Exhibit B**.

12 ***B. Stolen Information Is Valuable to Hackers and Thieves***

13 16. It is well known, and the subject of many media reports, that payment
 14 card data is highly coveted and a frequent target of hackers. Especially in the
 15 technology industry, the issue of data security and threats thereto is well known.
 16 Despite well-publicized litigation and frequent public announcements of data
 17 breaches, Defendant opted to maintain an insufficient and inadequate system to
 18 protect the personable identifiable information of Plaintiff and Class Members.

19 17. Legitimate organizations and criminal underground alike recognize
 20 the value of PII. Otherwise, they would not aggressively seek or pay for it. As
 21 previously seen in one of the world’s largest data breaches, hackers compromised
 22 the card holder data of 40 million of Target’s customers. *See* “Target: 40 million
 23 credit cards compromised,” CNN Money, Dec. 19, 2013, *available* at
 24 <http://money.cnn.com/2013/12/18/news/companies/target-credit-card/>, attached
 25 hereto as **Exhibit C**.

26 18. Credit or debit card information is highly valuable to hackers. Credit
 27 and debit card information that is stolen from the point of sale are known as
 28 “dumps.” *See* Krebs on Security April 16, 2016, Blog Post, *available* at

1 <https://krebsonsecurity.com/2016/04/all-about-fraud-how-crooks-get-the-cvv/>,
 2 attached hereto as **Exhibit D**. Credit and debit card dumps can be sold in the
 3 cybercrime underground for a retail value of about “\$20 apiece.” *Id.* This
 4 information can also be used to clone a debit or credit card. *Id.*

5 ***C. The Data Breach Has and Will Result in Additional Identity Theft and***
 6 ***Identity Fraud***

7 19. Defendant failed to implement and maintain reasonable security
 8 procedures and practices appropriate to protect the PII of Plaintiff and the Class
 9 Members.

10 20. The ramification of Defendant’s failure to keep Plaintiff’s and the
 11 Class Members’ data secure is severe.

12 21. According to Javelin Strategy and Research, “one in every three people
 13 who is notified of being a potential fraud victim becomes one . . . with 46% of
 14 consumers who had cards breached becoming fraud victims that same year.”
 15 “Someone Became an Identity Theft Victim Every 2 Seconds Last Year,” Fox
 16 Business, Feb. 5, 2014 *available at* <http://www.foxbusiness.com/personal-finance/2014/02/05/someone-became-identitytheft-victim-every-2-seconds-last-year.html> attached hereto as **Exhibit E**.

19 22. It is incorrect to assume that reimbursing a consumer for a financial
 20 loss due to fraud makes that individual whole again. On the contrary, after
 21 conducting a study, the Department of Justice’s Bureau of Justice Statistics (“BJS”)
 22 found that “among victims who had personal information used for fraudulent
 23 purposes, 29% spent a month or more resolving problems.” *See* “Victims of
 24 Identity Theft,” U.S. Department of Justice, Dec 2013, *available at*
 25 <https://www.bjs.gov/content/pub/pdf/vit12.pdf> attached hereto as **Exhibit F**. In
 26 fact, the BJS reported, “resolving the problems caused by identity theft [could] take
 27 more than a year for some victims.” *Id.* at 11.

1 ***D. Annual Monetary Losses from Identity Theft are in the Billions of***
 2 ***Dollars***

3 23. Javelin Strategy and Research reports that losses from identity theft
 4 reached \$21 billion in 2013. *See* 2013 Identity Fraud Report, attached hereto as
 5 **Exhibit G.** There may be a time lag between when harm occurs and when it is
 6 discovered, and also between when PII is stolen and when it is used. According to
 7 the U.S. Government Accountability Office (“GAO”), which conducted a study
 8 regarding data breaches:

9 [L]aw enforcement officials told us that in some cases, stolen data may
 10 be held for up to a year or more before being used to commit identity
 11 theft. Further, once stolen data have been sold or posted on the Web,
 12 fraudulent use of that information may continue for years. As a result,
 13 studies that attempt to measure the harm resulting from data breaches
 14 cannot necessarily rule out all future harm.

15 See GAO, Report to Congressional Requesters, at 33 (June 2007), *available* at
 16 <http://www.gao.gov/new.items/d07737.pdf>, attached hereto as **Exhibit H.**

17 24. Plaintiff and the Class Members now face years of constant
 18 surveillance of their financial and personal records, monitoring, and loss of rights.
 19 The Class is incurring and will continue to incur such damages in addition to any
 20 fraudulent credit and debit card charges incurred by them and the resulting loss of
 21 use of their credit and access to funds, whether or not such charges are ultimately
 22 reimbursed by the credit card companies.

23 ***E. Plaintiff and Class Members Suffered Damages***

24 25. The data breach was a direct and proximate result of Defendant’s
 25 failure to properly safeguard and protect Plaintiff’s and Class Members’ PII from
 26 unauthorized access, use, and disclosure, as required by various state and federal
 27 regulations, industry practices, and the common law. The data breach was also a
 28 result of Defendant’s failure to establish and implement appropriate administrative,
 29 technical, and physical safeguards to ensure the security and confidentiality of

1 Plaintiff's and Class Members' PII to protect against reasonably foreseeable threats
 2 to the security or integrity of such information.

3 26. Plaintiff's and Class Members' PII is private and sensitive in nature
 4 and was inadequately protected by Defendant. Defendant did not obtain Plaintiff's
 5 and Class Members' consent to disclose their PII, except to certain persons not
 6 relevant to this action, as required by applicable law and industry standards.

7 27. As a direct and proximate result of Defendant's wrongful action and
 8 inaction and the resulting data breach, Plaintiff and the Class Members have been
 9 placed at an imminent, immediate, and continuing risk of harm from identity theft
 10 and identity fraud, requiring them to take the time and effort to mitigate the actual
 11 and potential impact of the subject data breach on their lives by, among other things,
 12 placing "freezes" and "alerts" with credit reporting agencies, contacting their
 13 financial institutions, closing or modifying financial accounts, and closely
 14 reviewing and monitoring their credit reports and accounts for unauthorized
 15 activity.

16 28. Defendant's wrongful actions and inaction directly and proximately
 17 caused the theft and dissemination into the public domain of Plaintiff's and the
 18 Class Members' PII, causing them to suffer, and continue to suffer, economic
 19 damages and other actual harm for which they are entitled to compensation,
 20 including:

- 21 a. Theft of their PII;
- 22 b. The imminent and certainly impending injury flowing from potential
 fraud and identity theft posed by their PII being placed in the hands of
 criminals and already misused via the sale of Plaintiff's and Class
 Members' information on the Internet black market;
- 23 c. The untimely and inadequate notification of the data breach;
- 24 d. The improper disclosure of their PII;
- 25 e. Loss of privacy;

- 1 f. Ascertainable losses in the form of out-of-pocket expenses and the
- 2 value of their time reasonably incurred to remedy or mitigate the effects
- 3 of the data breach;
- 4 g. Ascertainable losses in the form of deprivation of the value of their PII,
- 5 for which there is a well-established national and international market;
- 6 h. Overpayments to Defendant for bookings and purchases during the
- 7 period of the subject data breach in that implied in the price paid for
- 8 such booking by Plaintiff and the Class Members to Defendant was the
- 9 promise that some amount of the booking charge would be applied to
- 10 the costs of implementing reasonable and adequate safeguards and
- 11 security measures that would protect customers' PII, which Defendant
- 12 and its affiliates did not implement and, as a result, Plaintiff and Class
- 13 Members did not receive what they paid for and were overcharged by
- 14 Defendant; and
- 15 i. Deprivation of rights they possess under the Unfair Competition
- 16 Laws.

17 CLASS ACTION ALLEGATIONS

18 29. Plaintiff brings this action on his own behalf and pursuant to the
 19 Federal Rules of Civil Procedure Rule 23(a), (b)(2), (b)(3), and (c)(4). Plaintiff
 20 intends to seek certification of a Nationwide Class and a California Class. The
 21 Nationwide class is initially defined as follows:

22 All persons residing in the United States who booked rooms at
 23 any of Defendant's hotels from the time period August 10, 2016
 24 to March 9, 2017 (the "Nationwide Class").

25 The California Class is initially defined as follows:

26 All persons residing in California who booked rooms at any of
 27 Defendant's hotels from the time period August 10, 2016 to
 28 March 9, 2017 (the "California Class").

1 30. Excluded from each of the above Classes is Defendant, including any
2 entity in which Defendant has a controlling interest, is a parent or subsidiary, or
3 which is controlled by Defendant, as well as the officers, directors, affiliates, legal
4 representatives, heirs, predecessors, successors, and assigns of Defendant. Also
5 excluded are the judge and the court personnel in this case and any members of their
6 immediate families. Plaintiff reserves the right to amend the Class definitions if
7 discovery and further investigation reveal that the Classes should be expanded or
8 otherwise modified.

9 31. *Numerosity.* Fed. R. Civ. P. 23(a)(1). The members of the Classes are
10 so numerous that the joinder of all members is impractical. While the exact number
11 of Class Members is unknown to Plaintiff at this time, Defendant has acknowledged
12 that customers' PII was stolen for a period of 8 months. The disposition of the
13 claims of Class Members in a single action will provide substantial benefits to all
14 parties and to the Court. The Class Members are readily identifiable from
15 information and records in Defendant's possession, custody, or control, such as
16 reservation receipts and confirmations.

17 32. *Commonality.* Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions
18 of law and fact common to the Classes, which predominate over any questions
19 affecting only individual Class Members. These common questions of law and fact
20 include, without limitation:

- 21 a. Whether Defendant owed a duty of care to Plaintiff and Class
22 Members with respect to the security of their personal information;
- 23 b. Whether Defendant took reasonable steps and measures to safeguard
24 Plaintiff's and Class Members' personal information;
- 25 c. Whether Defendant violated California's Unfair Competition Law by
26 failing to implement reasonable security procedures and practices;

- d. Whether Defendant violated common and statutory law by failing to promptly notify Class Members that their Private Identifiable Information had been compromised;
- e. Which security procedures and which data-breach notification procedure should Defendant be required to implement as part of any injunctive relief ordered by the Court;
- f. Whether Defendant has an implied contractual obligation to use reasonable security measures;
- g. Whether Defendant has complied with any implied contractual obligation to use reasonable security measures;
- h. Whether Defendant's acts and omissions described herein give rise to a claim of negligence;
- i. Whether Defendant knew or should have known of the security breach prior to its 2017 disclosure;
- j. Whether Defendant had a duty to promptly notify Plaintiff and Class Members that their personal information was, or potentially could be, compromised;
- k. What security measures, if any, must be implemented by Defendant to comply with its implied contractual obligations;
- l. The nature of the relief, including equitable relief, to which Plaintiff and the Class Members are entitled;
- m. Whether Defendant willfully and/or negligently violated the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*; and
- n. Whether Plaintiff and the Class Members are entitled to damages, civil penalties, punitive damages, and/or injunctive relief.

33. *Typicality.* Fed. R. Civ. P. 23(a)(3). Plaintiff's claims are typical of other Class Members because Plaintiff's PII, like that of every other Class Member, was misused and/or disclosed by Defendant.

1 34. *Adequacy of Representation.* Fed. R. Civ. P. 23(a)(4). Plaintiff will
2 fairly and adequately represent and protect the interests of the members of the
3 Classes. Plaintiff has retained competent counsel experienced in litigation of class
4 actions, including consumer and data breach class actions, and Plaintiff intends to
5 prosecute this action vigorously. Plaintiff's claims are typical of the claims of other
6 members of the Classes and Plaintiff has the same non-conflicting interests as the
7 other Class Members. Therefore, the interests of the Classes will be fairly and
8 adequately represented by Plaintiff and his counsel.

9 35. *Superiority of Class Action.* Fed. R. Civ. P. 23(b)(3). A class action is
10 superior to other available methods for the fair and efficient adjudication of this
11 controversy since joinder of all the members of the Classes is impracticable.
12 Furthermore, the adjudication of this controversy through a class action will avoid
13 the possibility of inconsistent and potentially conflicting adjudication of the
14 asserted claims. There will be no difficulty in the management of this action as a
15 class action.

16 36. Damages for any individual class member are likely insufficient to
17 justify the cost of individual litigation so that, in the absence of class treatment,
18 Defendant's violations of law inflicting substantial damages in the aggregate would
19 go un-remedied.

20 37. Class certification is also appropriate under Fed. R. Civ. P. 23(a) and
21 (b)(2), because Defendant has acted or refused to act on grounds generally
22 applicable to the Classes, so that final injunctive relief or corresponding declaratory
23 relief is appropriate as to the Classes as a whole.

COUNT I

Breach of Implied Contract

(On Behalf of Plaintiff, the Nationwide Class and the California Class)

27 38. Plaintiff alleges and incorporates herein by reference each and every
28 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if

1 set forth fully herein.

2 39. Defendant solicited and invited Plaintiff and the members of the
3 Classes to book hotel rooms in one of Defendant's hotels. Plaintiff and Class
4 Members accepted Defendant's offers and booked hotel rooms at one of
5 Defendant's hotels.

6 40. When Plaintiff and Class Members booked hotel rooms at one of
7 Defendant's hotels, they provided their Private Identifiable Information. In so
8 doing, Plaintiff and Class Members entered into implied contracts with Defendant
9 pursuant to which Defendant agreed to safeguard and protect such information and
10 to timely and accurately notify Plaintiff and Class Members if their data had been
11 breached and compromised.

12 41. Each booking by Plaintiff and Class Members was made pursuant to
13 the mutually agreed-upon implied contract with Defendant under which Defendant
14 agreed to safeguard and protect Plaintiff's and Class Members' PII and to timely
15 and accurately notify them if such information was compromised or stolen.

16 42. Plaintiff and Class Members would not have provided and entrusted
17 their PII to Defendant in the absence of the implied contract.

18 43. Plaintiff and Class Members fully performed their obligations under
19 the implied contracts with Defendant.

20 44. Defendant breached the implied contracts which it made with Plaintiff
21 and Class Members by failing to safeguard and protect the PII of Plaintiff and Class
22 Members and by failing to provide timely and accurate notice to them that their PII
23 was compromised as a result of the data breach.

24 45. Plaintiff and Class Members have lost the benefit of the bargain by
25 having their PII compromised. Plaintiff and Class Members have spent more on
26 booking Defendant's rooms than they would have if they had known that Defendant
27 was not providing the reasonable security that Plaintiff and Class Members
28 expected. Plaintiff and Class Members have lost money and/or property as a result

1 of Defendant's actions.

2 46. As a direct and proximate result of Defendant's breaches of the implied
3 contracts between Defendant and Plaintiff and Class Members, Plaintiff and Class
4 Members sustained actual losses and damages in an amount according to proof at
5 trial but in excess of the minimum jurisdictional requirement of this Court.

6 **COUNT II**

7 **Negligence**

8 (On Behalf of Plaintiff, the Nationwide Class and the California Class)

9 47. Plaintiff alleges and incorporates herein by reference, each and every
10 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
11 set forth fully herein.

12 48. Upon accepting Plaintiff's and Class Members' PII in its point-of-sale
13 system, Defendant undertook and owed a duty to Plaintiff and Class Members to
14 exercise reasonable care to secure and safeguard that information from being
15 compromised, lost, stolen, misused, and or/disclosed to unauthorized parties and to
16 utilize commercially reasonable methods to do so. This duty included, among other
17 things, designing, maintaining, and testing Defendant's security systems to ensure
18 that Plaintiff's and the Class Members' PII was adequately secured and protected.

19 49. Defendant further had a duty to implement processes that would detect
20 a breach of its security system in a timely manner.

21 50. A "special relationship" exists between Defendant and the Plaintiff
22 and Class Members. Defendant entered into a "special relationship" with the
23 Plaintiff and Class Members whose Personal Information was requested, collected,
24 and received by Defendant. Defendant entered into a "special relationship" with all
25 Plaintiffs and Class Members by placing their Personal Information in their
26 database, and their affiliate's database. Furthermore, Defendant also created a
27 "special relationship" with Plaintiff and Class Members who provided their
28 information to Defendant and its affiliates, by playing a large role in creating and

1 maintaining centralized computer systems and data security practices that were used
2 for storage of all of Defendant's customers' Personal Information. Finally,
3 Defendant also created a "special relationship" with Plaintiff and Class Members
4 whose Personal Information was placed in the Defendant database due to their
5 dealings with its affiliates. Plaintiff's and Class Members' Personal Information
6 was placed in the Defendant's and/or its affiliates' database so that they could
7 receive access to hotel rooms with Defendant.

8 51. Due to Defendant's negligence, Plaintiff and Class Members have
9 suffered a loss of value in the form of diminution in the value of their PII. The
10 diminution in the value of Plaintiff and Class Members' PII results in physical
11 damage to their property, namely, their PII.

12 52. Defendant had a duty to timely disclose to Plaintiff and Class Members
13 that their PII had been or was reasonably believed to have been compromised.
14 Timely disclosure was appropriate so that, among other things, Plaintiff and Class
15 Members could take appropriate measures to avoid use of bank funds and monitor
16 their account information and credit reports for fraudulent activity.

17 53. Defendant breached its duty to discover and to notify Plaintiff and
18 Class Members of the unauthorized access by failing to discover the security breach
19 within reasonable time and by failing to notify Plaintiff and Class Members of the
20 breach until July of 2017. To date, Defendant still has not provided sufficient
21 information to Plaintiff and Class Members regarding the extent and scope of the
22 unauthorized access and continues to breach its disclosure obligations to Plaintiff
23 and the Class Members.

24 54. Defendant also breached its duty to Plaintiff and Class Members to
25 adequately protect and safeguard this information by knowingly disregarding
26 standard information security principles, despite obvious risks, and by allowing
27 unmonitored and unrestricted access to unsecured PII. Furthering its negligent
28 practices, Defendant failed to provide adequate supervision and oversight of the PII,

1 in spite of the known risk and foreseeable likelihood of breach and misuse, which
2 permitted a third party to gather Plaintiff's and Class Members' PII, misuse the PII,
3 and intentionally disclose it to others without consent.

4 55. Through Defendant's acts and omissions as described in this
5 Complaint, including Defendant's failure to provide adequate security and its
6 failure to protect Plaintiff's and Class Members' PII from being foreseeably
7 captured, accessed, disseminated, stolen, and misused, Defendant unlawfully
8 breached its duty to exercise reasonable care to adequately protect and secure
9 Plaintiff's and Class Members' PII during the time it was within Defendant's
10 control.

11 56. Further, through its failure to timely discover and provide clear
12 notification of the data breach to consumers, Defendant prevented Plaintiff and
13 Class Members from taking meaningful, proactive steps to secure their PII.

14 57. Upon information and belief, Defendant improperly and inadequately
15 safeguarded the PII of Plaintiff and Class Members and did so in a manner that
16 deviated from standard industry rules, regulations, and practices at the time of the
17 data breach.

18 58. Defendant's failure to take proper security measures to protect
19 Plaintiff's and Class Members' sensitive PII, as described in this Complaint, created
20 conditions conducive to a foreseeable, intentional criminal act, namely the
21 unauthorized access of Plaintiff's and Class Members' PII.

22 59. Defendant's conduct was grossly negligent and departed from all
23 reasonable standards of care, including, but not limited to: failing to adequately
24 protect the PII; failing to conduct adequate regular security audits; and failing to
25 provide adequate and appropriate supervision of persons having access to Plaintiff's
26 and Class Members' PII.

27 60. Neither Plaintiff nor the other Class Members contributed to the data
28 breach and subsequent misuse of their PII as described in this Complaint.

61. As a direct and proximate result of Defendant's negligence, Plaintiff and Class Members sustained actual losses and damages in an amount according to proof at trial but in excess of the minimum jurisdictional requirement of this Court.

COUNT III

Violation of California's Unfair Competition Law Cal. Bus. & Prof. Code § 17200 Unlawful Business Practices

(On Behalf of Plaintiff and the California Class)

8 62. Plaintiff alleges and incorporates herein by reference, each and every
9 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
10 set forth fully herein.

11 63. Defendant has violated Cal. Bus. and Prof. Code §17200 et seq. by
12 engaging in unlawful, unfair or fraudulent business acts and practices that constitute
13 acts of “unfair competition” as defined in Cal. Bus. Prof. Code §17200. Defendant
14 engaged in unlawful acts and practices with respect to its services by establishing
15 the sub-standard security practices and procedures described herein; by soliciting
16 and collecting Plaintiff’s and Class Members’ PII with knowledge that the
17 information would not be adequately protected; and by gathering Plaintiff’s and
18 Class Members’ PII in an unsecure electronic environment in violation of
19 California’s data breach statute, Cal. Civ. Code § 1798.81.5, which requires
20 Defendant to take reasonable steps to safeguard the PII of Plaintiff and the Class
21 Members. Defendant also violated Federal Trade Commission Act (15 U.S.C. §45),
22 and Cal. Civ. Code § 1798.81.

23 64. In addition, Defendant engaged in unlawful acts and practices with
24 respect to its services by failing to discover and then disclose the data breach to
25 Plaintiff and Class Members in a timely and accurate manner, contrary to the duties
26 imposed by Cal. Civ. Code § 1798.82. To date, Defendant still has not provided
27 sufficient information to Plaintiff and the Class Members.

28 ||| 65. As a direct and proximate result of Defendant's unlawful acts and

1 practices, Plaintiff and the Class Members were injured and lost money or property,
2 including but not limited to the loss of their legally protected interest in the
3 confidentiality and privacy of their PII, and additional losses described above.

4 66. Plaintiff and the Class Members seek relief under Cal. Bus. & Prof.
5 Code § 17200, *et. seq.*, including, but not limited to, restitution to Plaintiff and Class
6 Members of money or property that Defendant acquired from Plaintiff and the Class
7 Members by means of its unlawful, and unfair business practices, declaratory relief,
8 attorney's fees and costs (pursuant to Cal. Code Civ. Proc. § 1021.5), and injunctive
9 or other equitable relief.

10 **COUNT IV**

11 **Violation of California's Unfair Competition Law Cal. Bus. & Prof. Code**
12 **§17200 Unfair Business Practices**

13 (On Behalf of Plaintiff and the California Class)

14 67. Plaintiff alleges and incorporates herein by reference, each and every
15 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
16 set forth fully herein.

17 68. Defendant engaged in unfair acts and practices by soliciting and
18 collecting Plaintiff's and Class Members' PII with knowledge that the information
19 would not be adequately protected while Plaintiff's and the Class Members' PII
20 would be processed in an unsecure electronic environment. These unfair acts and
21 practices were immoral, unethical, oppressive, unscrupulous, unconscionable,
22 and/or substantially injurious to Plaintiff and Class Members. They were likely to
23 deceive the public into believing their PII was secure, when it was not. The harm
24 these practices caused to Plaintiff and Class Members outweighed their utility, if
25 any.

26 69. Defendant engaged in unfair acts and practices with respect to the
27 provision of its services by failing to enact adequate privacy and security measures
28 to protect Plaintiff's and Class Members' PII from further unauthorized disclosure,

1 release, data breaches, and theft and by failing to timely discover and give notice of
2 the data breach. These unfair acts and practices were immoral, unethical,
3 oppressive, unscrupulous, unconscionable, and/or substantially injurious to
4 Plaintiff and Class Members. They were likely to deceive the public into believing
5 their Private Identifiable Information was secure, when it was not. The harm these
6 practices caused to Plaintiff and the Class Members outweighed their utility, if any.

7 70. As a direct and proximate result of Defendant's unfair practices and
8 acts, Plaintiff and the Class Members were injured and lost money or property,
9 including but not limited to the loss of their legally protected interest in the
10 confidentiality and privacy of their PII, and additional losses described above.

11 71. Plaintiff and the Class Members seek relief under Cal. Bus. & Prof.
12 Code § 17200, *et. seq.*, including, but not limited to, restitution to Plaintiff and Class
13 Members of money or property that Defendant acquired from Plaintiff and the Class
14 Members by means of its unfair business practices, declaratory relief, attorney's
15 fees and costs (pursuant to Cal. Code Civ. Proc. §1021.5), and injunctive or other
16 equitable relief.

17 **COUNT V**

18 **Violation of California's Unfair Competition Law Cal. Bus. & Prof. Code**
19 **§17200 Fraudulent/Deceptive Business Practices**

20 (On Behalf of Plaintiff and the California Class)

21 72. Plaintiff alleges and incorporates herein by reference, each and every
22 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
23 set forth fully herein.

24 73. Defendant engaged in fraudulent and deceptive acts and practices by
25 omitting, suppressing, and concealing the material fact of the inadequacy of the
26 privacy and security protections for Plaintiff's and Class Members' PII. When
27 Plaintiff and Class Members were booking hotel rooms with Defendant, Defendant
28 failed to disclose to Plaintiff and Class Members that its data security systems failed

1 to meet legal and industry standards for the protection of their Private Identifiable
2 Information. Plaintiff and the Class Members would not have booked a hotel room
3 with Defendant if they had known about its substandard data security practices.
4 These nondisclosures were likely to deceive members of the public, including
5 Plaintiff and Class Members, into believing their PII was secure, when it was not,
6 and that Defendant was complying with relevant law and industry standards, when
7 it was not.

8 74. As a direct and proximate result of Defendant's deceptive practices
9 and acts, Plaintiff and the Class Members were injured and lost money or property,
10 including but not limited to the loss of their legally protected interest in the
11 confidentiality and privacy of their PII, and additional losses described above.

12 75. Plaintiff and the Class Members seek relief under Cal. Bus. & Prof.
13 Code § 17200, *et. seq.*, including, but not limited to, restitution to the Plaintiff and
14 Class Members of money or property that Defendant acquired from Plaintiff and
15 the Class Members by means of its fraudulent and deceptive business practices,
16 declaratory relief, attorney's fees and costs (pursuant to Cal. Code Civ. Proc.
17 §1021.5), and injunctive or other equitable relief.

18 **COUNT VI**

19 ***Negligence Per Se***

20 (On Behalf of Plaintiff and the California Class)

21 76. Plaintiff alleges and incorporates herein by reference, each and every
22 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
23 set forth fully herein.

24 77. Pursuant to the Federal Trade Commission Act (15 U.S.C. §45),
25 Defendant had a duty to provide fair and adequate computer systems and data
26 security practices to safeguard Plaintiff's and the Class Members' PII.

27 78. Defendant had a duty to Plaintiff and the Class Members to implement
28 and maintain reasonable security procedures and practices to safeguard Plaintiff's

1 and Class Members' PII as required by California Civil Code §1798.81.5.

2 79. Defendant breached its duties to Plaintiff and the Class Members under
3 the Federal Trade Commission Act (15 U.S.C. § 45) and California Civil Code
4 §1798.81.5 by failing to provide fair, reasonable, or adequate computer systems and
5 data security practices to safeguard Plaintiff's and the Class Members' PII.

6 80. Defendant's failure to comply with applicable laws and regulations
7 constitutes negligence *per se*.

8 81. But for Defendant's negligence *per se*, Plaintiff and the Class
9 Members would not have been injured.

10 82. The injury and harm suffered by Plaintiff and the Class Members was
11 the reasonably foreseeable result of Defendant's negligence per se.

12 83. Defendant knew or should have known that its negligence per se would
13 cause Plaintiff and the Class Members to experience the foreseeable harms
14 associated with the exposure of their PII.

15 84. As a direct and proximate result of Defendant's negligence per se,
16 Plaintiff and Class Members have suffered injury and are entitled to damages in an
17 amount to be proven at trial but in excess of the minimum jurisdictional requirement
18 of this Court.

19 **COUNT VII**

20 **Breach of the Covenant of Good Faith and Fair Dealing**

21 (On Behalf of Plaintiff, the Nationwide Class and the California Class)

22 85. Plaintiff alleges and incorporates herein by reference, each and every
23 allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if
24 set forth fully herein.

25 86. The law implies a covenant of good faith and fair dealing in every
26 contract.

27 87. Plaintiff and Class Members contracted with Defendant by accepting
28 Defendant's offers and paying for the booking of hotel room(s).

88. Plaintiff and Class Members performed all of their duties under their agreements with Defendant.

89. All of the conditions required for Defendant's performance under the contract have occurred.

90. Defendant did not provide and/or unfairly interfered with and/or frustrated the right of Plaintiff and the Class Members to receive the full benefits under their agreements.

91. Defendant breached the covenant of good faith and fair dealing implied in its contracts with Plaintiff and the Class Members by failing to use and provide reasonable and industry-leading security practices to safeguard the PII of Plaintiff and the Class Members.

92. Plaintiff and the Class Members were damaged by Defendant's breach in that they paid for, but never received, the valuable security protections to which they were entitled.

93. As a direct and proximate result of Defendant's breach of the covenant of good faith and fair dealing, Plaintiff and Class Members have suffered injury and are entitled to damages in an amount to be proven at trial but in excess of the minimum jurisdictional requirement of this Court.

COUNT VIII

Violation of California Data Breach Act

(On Behalf of Plaintiff and the California Class)

94. Plaintiff alleges and incorporates herein by reference, each and every allegation contained in paragraphs 1 through 37, inclusive, of this Complaint as if set forth fully herein.

95. Defendant was required, but failed, to take all reasonable steps to dispose, or arrange for the disposal, of records within its custody or control containing PII when the records were no longer to be retained, by shredding, erasing, or otherwise modifying the personal information in those records to make

1 it unreadable or undecipherable through any means.

2 96. Defendant's conduct, as alleged herein above, violated
3 California, Cal. Civ. Code §§ 1798.80 *et. seq.*

4 97. Defendant was required, but failed, to implement and maintain
5 reasonable security procedures and practices appropriate to the nature and scope of
6 the information compromised in the data breach.

7 98. The data breach constituted a "breach of the security system" within
8 the meaning of section 1798.82(g) of the California Civil Code.

9 99. The information compromised in the data breach constituted "personal
10 information" within the meaning of section 1798.80(e) of the California Civil Code.

11 100. California Civil Code § 1798.80(e) requires disclosure of data
12 breaches "in the most expedient time possible and without unreasonable delay...."

13 101. Defendant violated Cal. Civ. Code § 1798.80(e) by unreasonably
14 delaying disclosure of the data breach to Plaintiff and other Class Members, whose
15 PII was, or was reasonably believed to have been, acquired by an unauthorized
16 person.

17 102. Upon information and belief, no law enforcement agency instructed
18 Defendant that notification to Plaintiff and Class Members would impede a criminal
19 investigation.

20 103. As a direct and proximate result of Defendant's violation of Cal. Civ.
21 Code § 1798.80, *et seq.*, Plaintiff and Class Members incurred economic damages,
22 including expenses associated with monitoring their personal and financial
23 information to prevent further fraud.

24 104. Plaintiff and the Class Members seek all remedies available under Cal.
25 Civ. Code § 1798.84, including, but not limited to: (a) actual damages suffered by
26 Class Members as alleged above; (b) statutory damages for Defendant's willful,
27 intentional, and/or reckless violation of Cal. Civ. Code § 1798.83; (c) equitable
28 relief; and (d) reasonable attorneys' fees and costs under Cal. Civ. Code

1 §1798.84(g).

2 105. In violating the California Data Breach Act, Defendant acted in a
3 willful, wanton and malicious manner, in callous and conscious disregard for the
4 rights and interests of Plaintiff and the Class Members, and with knowledge that
5 its conduct would substantially annoy, vex and damage Plaintiff and the Class
6 Members thereby entitling Plaintiff and the Class Members to recover punitive and
7 exemplary damages against Defendant pursuant to California Civil Code section
8 3294 in an amount according to proof at trial.

9 **II. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of all Class Members,
11 respectfully requests that the Court enter judgment in his favor and against
12 Defendant as follows:

13 A. For an Order certifying the Nationwide Class and California Class as
14 defined herein and appointing Plaintiff and his Counsel to represent
15 the Nationwide Class and the California Class;

16 B. For equitable relief enjoining Defendant from engaging in the
17 wrongful conduct complained of herein pertaining to the misuse and/or
18 disclosure of Plaintiff's and Class Members' Private Identifiable
19 Information, and from refusing to issue prompt, complete, and
20 accurate disclosures to Plaintiff and Class Members;

21 C. For equitable relief compelling Defendant to utilize appropriate
22 methods and policies with respect to consumer data collection, storage,
23 and safety and to disclose with specificity to Class Members the type
24 of PII compromised.

25 D. For restitution and disgorgement of the revenues wrongfully obtained
26 as a result of Defendant's wrongful conduct;

27 E. For an award of actual damages and compensatory damages, in an
28 amount to be determined at trial;

1 F. For punitive and exemplary damages;
2 G. For an award of costs of suit, litigation expenses and attorneys' fees,
3 as allowable by law; and
4 G. For such other and further relief as this Court may deem just and
5 proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, on behalf of himself and all others similarly situated, hereby
8 demands a jury trial for all claims so triable.

9
10 Dated: April 20, 2018

Respectfully Submitted,

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12
13 /s/ *Bobby Saadian*
14 Bobby Saadian
15 J. Paul Gignac
16 Attorneys for Plaintiff
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